

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MUNCEY MORRIS,

Plaintiff,

Case No. 11-cv-10938

v

Honorable Thomas L. Ludington
Magistrate Judge R. Steven Whalen

NEWBERRY CORRECTIONAL
FACILITY, ET AL.,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
MOTION TO DISMISS WITHOUT PREJUDICE**

Plaintiff Muncey Morris was an inmate at Newberry Correctional Facility in Jackson, Michigan. On March 9, 2011, Morris filed a complaint alleging that prison officials were deliberately indifferent to his serious medical needs, in violation of the Eighth Amendment. ECF No. 1. Morris alleged that he had a history of falling out of his bunk in prison, resulting in injuries to his shoulders, neck, and head. He also alleged failure to properly diagnose or treat his injuries, including the denial of follow-up treatment.

On January 11, 2013, Defendants Peggy Green and Glenda McClurg filed a motion to dismiss claiming Morris had not exhausted his administrative remedies in compliance with the Michigan Department of Corrections's procedures. ECF No. 70. One week later, on January 18, 2013, Defendant Jeff James filed a motion to dismiss asserting that Morris's complaint should be dismissed for failure to exhaust administrative remedies. ECF No. 74. On August 28, 2013, Magistrate Judge Whalen issued his report and recommended granting both motions to dismiss without prejudice for failure to exhaust remedies. ECF No. 100.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendants filed any objections. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation (ECF No. 100) is **ADOPTED**.

It is further **ORDERED** that Defendants Green and McClurg's motion to dismiss (ECF No. 70) is **GRANTED**.

It is further **ORDERED** that Defendant James's motion to dismiss (ECF No. 74) is **GRANTED**.

It is further **ORDERED** that Defendants Peggy Green, Glenda McClurg, and Jeff James are **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: October 23, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail and on Muncey Morris, 12882 Dwyer, Detroit, MI 48212 by first class U.S. mail on October 23, 2013.

s/Tracy A. Jacobs
TRACY A. JACOBS